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FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
STEPHEN SAVITZKY	15358-46	7040
	EXAMINER	
AND CREW, LLP		
	ART UNIT	PAPER NUMBER
	STEPHEN SAVITZKY	STEPHEN SAVITZKY 15358-46  EXAM  AND CREW, LLP

DATE MAILED: 04/16/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

## Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

Application No.	Applicant(s)
09/302,552	SAVITZKY ET AL.
Examiner	Art Unit
Maikhanh Nguyen	2176

The Ap 41.37.	opeal Brief filed on <u>26 December 0206</u> is defective for failure to comply with one or more provisions of 37 CFR
1205.0	id dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 3) within ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer. ISIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.
1. 🗌	The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. 🗌	The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. 🗀	At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. 🛚	(a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. 🗌	The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. 🗌	The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. 🗌	The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. 🗌	The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner <b>and relied upon by appellant in the appeal</b> , along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. 🗌	The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.🖂	Other (including any explanation in support of the above items):
	See Attached.
	William Bashore
	WILLIAM BASHORE

PRIMARY EXAMINER

<sup>--</sup> The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

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## NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 § CFR 41.37

- 1. Upon review of the IFW, it is noted that "Summary of claimed subject matter" appearing in the Appeal Brief filed 12/26/206 is deficient.
- 2. 37 CFR § 41.37(c) (1) (v) reads as follows:
  - (c) (1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:
  - (v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the

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specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

- 3. The Appeal Brief filed on 12/26/206 is defective because the limitation "referencing each page or each electronic document in the list as an item of the staple data object" is not mapped to the specification by page and line number, and to the drawing, if any, by reference characters (see page 4, lines 15-16).
- 4. A substitute brief that is in compliance with 37 CFR § 41.37(c) is required. To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

For more information, see the United Patent and Trademark website

www.uspto.gov and, in particular, the web page entitled "More Information on
the Rules of Practice Before the Board of Patent Appeals and Interferences, Final
Rule" located at the following URL:

http://www.uspto.gov/web/offices/dcom/bpai/fr 2004/more info.html

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## **Contact information**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for patents P.O. Box 1450 Alexandria, VA 22313-1450

Maikhanh Nguyen

WILLIAM BASHORE
PRIMARY EXAMINER